

Five years on Europe is still ignoring its responsibilities towards Iraqi refugees

Introduction

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Due to continuing anecdotal evidence that Iraqis are being treated in hugely varying ways in different European countries, in February 2008 ECRE conducted another survey amongst the European refugee-assisting NGO community on the treatment of Iraqi asylum seekers and refugees in Europe.¹ The results of this survey show once again that European Union (EU) Member States need to urgently take steps to end the protection lottery faced by Iraqis in Europe and ensure humane policies are in place by adopting a common approach towards Iraqi asylum seekers and refugees on EU territory. They should do this by:

- Determining asylum cases fairly and consistently;
- Creating more resettlement possibilities in Europe for Iraqi refugees;
- Suspending forced and mandatory returns;²
- Not promoting voluntary returns to Iraq; and
- Giving those who cannot be returned sufficient material assistance so they can live in dignity and not become destitute.

1) Europe's weak response to the crisis of displaced Iraqis

Addressing the crisis of displacement within and from Iraq is a massive and continuing challenge, which remains unmet in part due to the shocking lack of political will from European countries. Europe's response to the crisis of displaced Iraqis has been hugely inadequate with European governments failing to fairly share the responsibility for Iraqi refugees with one another and with other countries around the world. Five years since the start of the war the problem of lack of security and protection persists in all parts of Iraq. Of the 2.4 million Iraqis who have fled Iraq since the 2003 invasion, Iraq's neighbours, Jordan and Syria, have assisted 750,000 and 1.4 million Iraqi refugees respectively.³ Having received relatively little international support to bolster their limited resources and absorption capacities both these neighbouring countries tightened their border controls during 2007.

At the same time EU Member States have focused on preventing refugees' access to their territory, including Iraqis, through the development of ever stricter border controls that do not distinguish asylum seekers from other persons arriving at the border. The new European Border Management Agency (FRONTEX) is targeting Iraqi 'illegal immigrants' and planning an operation to further prevent their irregular entry into the EU.⁴ However, there are no legal routes to Europe for Iraqis fleeing persecution. Instead they continue to face long and dangerous journeys if they wish to seek sanctuary in Europe and some even experience maltreatment at the EU's border.⁵

Recommendations:

- ECRE urges countries beyond the immediate region of Iraq to help carry the humanitarian burden through both financial and practical assistance.
- EU Member States need to look at all measures to facilitate access to Europe for Iraqi refugees, including the relaxation of the current visa restrictions for Iraqis, family reunion rules, and through issuing humanitarian visas.
- ECRE also urges EU Member States to ensure access to Europe, including entry at the borders, for displaced Iraqis and other third country nationals fleeing the violence in Iraq, so they may seek asylum.

2) Asylum Applications by Iraqis & their Recognition Rates in Europe

Some 100,000 asylum applications from Iraqis were received in the EU between 2003 and 2007. Overall Iraqis were the largest single group of asylum seekers arriving in industrialised countries in 2006 and in 2007.⁶ According to UNHCR, 38,286 Iraqis applied for asylum in the EU in 2007, which represents more than a 50% increase compared to 2006, when some 19,496 applications from Iraqis were lodged.⁷

By 2006 *Sweden* had granted protection to more Iraqis than all the other EU Member States combined⁸ and Sweden remained the main receiving country in 2007. However, and following repeated unanswered calls to its European partners for greater solidarity, July 2007 saw Sweden introduce a more restrictive policy towards Iraqi asylum seekers, which is expected to reduce the recognition rate in 2008. Statistics from the first months of 2008 suggest that this will be a dramatic drop.

During our survey we collected numbers of new applications made in European countries in 2007 and some interesting examples include: 18,559 in *Sweden*; 5,474 in *Greece*; 4,327 in *Germany*; 1,835 in the *UK*; 649 in *Denmark*; 200 in *Cyprus*; and 4 in *Slovenia*.

In some EU Member States recognition rates are extremely low. ECRE estimates that positive decision rates at first instance on Iraqi applications varied from 0% to nearly 90% in the EU during 2007. For example, from a cross section of countries surveyed there were the following recognition rates for Iraqis at first instance:⁹ 87.5% in *Cyprus*; 82% in *Sweden*; 85% in *Germany*; 30% in *Denmark*; 13% in the *UK*; and 0% in *Slovenia* and 0% in *Greece* (while at second instance 107 gained refugee status and 5 were granted humanitarian protection in Greece). In 2006 the Iraqi recognition rates¹⁰ were: 90% in *Sweden*; 81% in *Cyprus*; 12% in the *UK*; 11% in *Germany*; 2% in *Denmark*; and 0% in *Greece* and *Slovakia*.

Meanwhile, *Turkey's* national asylum system currently retains a 'geographic limitation' that only allows Iraqis to apply for temporary asylum, as opposed to refugee status, whilst a durable solution is sought by UNHCR, mostly through resettlement to a third country.

ECRE is concerned at the large variances between European countries in the recognition rates of Iraqis and especially alarmed by the low recognition rate of Iraqis in some European countries.

Recommendations:

- EU Member States with low recognition rates for Iraqi asylum claims should review their asylum procedures and bring them in line with the good practices in other European countries, in order to ensure that the protection needs of Iraqi asylum seekers in Europe are met.
- ECRE urges EU Member States to give all Iraqi asylum claimants in Europe the opportunity to lodge an asylum application and have it processed with minimum delay, respecting procedural safeguards. These applications should be dealt with on an individual basis.

3) Withdrawal of Protection from Iraqis

Since November 2003, the German authorities have revoked the refugee status of around 18,000 Iraqis granted protection during Saddam Hussein's reign - the only European country to do so on such a scale to date. ECRE welcomes the fact that in May 2007, the German Federal Ministry of the Interior decided to stop initiating revocation procedures and to maintain refugee status with regard to some groups at risk from Iraq. However, the situation of the many thousands whose status was revoked prior to this change in policy has not been addressed.¹¹

Recommendation:

- European countries should not prematurely ‘downgrade’ or withdraw protection from Iraqi refugees. Before taking the serious step of withdrawing refugee status European countries should ascertain that the refugee can effectively, genuinely and voluntarily re-avail him / herself of the protection of the country of origin as prescribed in international refugee and human rights law. This is not presently the case in Iraq. Moreover, a settled status is a key factor for promoting successful integration into the asylum country and eventual re-integration into the home country.

4) Resettlement

In 2007, a little over 1,650 Iraqis were resettled among the countries covered by ECRE’s 2008 survey. At present, only seven EU Member States are currently engaged in resettlement efforts - Denmark, Finland, Ireland, The Netherlands, Portugal, Sweden and the UK, in addition to Norway and Iceland. Several other EU Member States have recently expressed interest in undertaking new resettlement activities, but it is too early to say whether and what categories of Iraqis may benefit from these programmes.

Sweden resettled 79 Iraqi refugees in 2006, 732 Iraqi refugees in 2007 and is planning to take more in 2008. In 2007, *Finland* resettled 127 Iraqis and for 2008 there is a resettlement quota of 300 Iraqis to be received from Syria and Jordan. In 2007, more than 200 Iraqi Kurds were resettled to *Ireland*. In *The Netherlands* the government has agreed to resettle 125 Iraqi asylum seekers per year from 2007. In 2006, *Norway* resettled 9 Iraqis, while this number increased to 81 in 2007 and indications are that numbers may increase further in 2008. Under the *UK’s* Mandate Scheme in 2007, UNHCR referred 295 Iraqis, 242 of which were residing in Jordan, 45 in Syria and 49 in Turkey. Of these referrals, UNHCR have records of only 24 departures to the UK - 20 from Jordan and 4 from Syria.

France and *Germany* have no formal resettlement programmes. The French Minister of Foreign Affairs has announced that France wishes to receive Chaldean Iraqis. There is also some discussion at the moment at various levels on whether Germany should accept a number of Iraqi refugees of non-Muslim religious minorities from Syria and possibly Jordan.

In *Denmark*, one Iraqi refugee was accepted on the Danish resettlement quota in 2006 and 10 Iraqis in 2007. Denmark also initiated a resettlement programme in 2007 towards Iraqi interpreters and their families who worked for the Danish troops in Iraq. As of January 2008, 367 cases out of 376 have been processed and all of them were accepted.¹² In 2007 the Minister of Defence in *Poland* declared that the protection needs of Iraqi interpreters who have worked for the Polish army in Iraq would also be recognised. In October 2007, the *UK* announced a scheme of assistance for Iraqis who have worked for their armed forces and civilian missions in Iraq.¹³ The UK government said in 2008 that it aims to bring in 600 UK-employed Iraqis (individuals) through the Gateway Programme over two years. The UK has also stated it will bring in a further 200 Iraqis already in refugee camps in Syria or Jordan per year. This would total 500 Iraqis per year within the overall annual Gateway quota of 750 per year.

Recommendation:

- ECRE urges more EU Member States to offer a significant number of resettlement places in Europe for Iraqi refugees in the region who have been assessed as in need of resettlement according to UNHCR’s criteria. They should do this through existing resettlement programmes or on an *ad hoc* basis, either individually by countries or collectively through the EU.

5) Returns¹⁴

In 2007 forced returns of Iraqis took place from Denmark, Greece, Poland, Sweden and the UK.

Confirmed forced removals to Iraq from the *UK* since 2003 indicate: 87 persons were on three military flights to Northern Iraq, leaving in November 2005, September 2006 and February 2007. However, since September 2007 scheduled flights via Jordan have been used to forcibly remove Iraqis to Northern Iraq in smaller numbers and more frequently, so it is difficult to monitor these additional numbers. Although it remains government policy to remove unsuccessful asylum seekers to anywhere in Iraq, removals have so far been to Northern Iraq only.

According to information provided by the Border Police Headquarters in *Poland*, in 2006 one person from Iraq was deported under police escort to Tallil in Iraq, 5 Iraqis were deported to Damascus and 1 Iraqi citizen was transferred to the UK under the Dublin II Regulation. In the first half of 2007, four Iraqis were deported: two to Amman and two to Damascus. An NGO reported that in early 2006, one Iraqi was forcibly returned from *Azerbaijan* to Iran from where he was further forcibly returned to Iraq.

NGO anecdotal evidence suggests that for a few months in 2007 there was a direct flight from Athens to Erbil once a week and that this was used at least for a few deportations from *Greece*. It should also be noted that during the last months the Greek authorities have forcibly returned Iraqis to Turkey under a bilateral readmission agreement. There are also indications, although these are officially denied, that Iraqis forcibly returned to Greece from *Italy* are sometimes also subsequently forcibly removed to Turkey.¹⁵

Sweden forcibly removed one Iraqi asylum seeker from Northern Iraq whose application had been rejected in 2007 via Amman to Baghdad. On 18 February 2008 Sweden and Iraq signed a Readmission Agreement that enables Sweden to forcibly return asylum seekers whose applications have been rejected, of whom there are 400.¹⁶

Many European governments also offer return assistance programmes to support Iraqi refugees and unsuccessful asylum seekers to return.¹⁷ *Norway* promotes voluntary return to Northern Iraq and, as of 1 March 2008, it introduced a new voluntary return programme offering financial aid to returnees. In the *UK*, Iraqi asylum seekers whose cases are rejected are initially offered a voluntary return package. Due to the fact that many have seen the withdrawal of their minimum support level that was previously given to them, a significant number of Iraqis have opted to return with the help of IOM. Since last year, *Sweden* has been offering financial support for Iraqis willing to voluntarily return, but few have accepted the offer. Asylum seekers whose applications have been rejected are reported to be pressured to return 'voluntarily' through reducing their social assistance allowances and in some cases there are threats to withdraw this support completely.

Recommendations:

- Returnees to Iraq are particularly affected by the difficult economic and humanitarian conditions and in view of its extremely limited absorption capacity, the burden on Iraq should not be increased through returns from Europe.
- ECRE calls for the total suspension of the forced and mandatory return of Iraqis to any part of the country, including northern Iraq, until there is an effective and sustainable infrastructure in Iraq to uphold the rule of law and respect human rights.
- ECRE urges EU Member States not to transfer Iraqis under the EU's Dublin II Regulation or use Readmission Agreements if it is known that that country does not

properly consider Iraqi asylum claims or that there are protection concerns with respect to the treatment of Iraqi asylum claims.

- ECRE welcomes the availability of return assistance through voluntary return programmes to refugees and asylum seekers whose applications have been rejected. However, returns should only be ‘facilitated’ for Iraqis who indicate a strong desire to return and who have been given the necessary information to make an informed choice. ECRE urges European states not to *promote* voluntary returns to Iraq. Moreover any voluntary returns to Iraq from Europe should be gradual and staggered.

6) Iraqis whose asylum applications are rejected but cannot Return

Many European governments acknowledge that many Iraqis who do not receive a form of international protection still cannot return for reasons that are beyond their control. Yet in some countries they are left in a legal ‘limbo’, with few or no rights and without any possibility of receiving support or permission to work in order to survive, which leaves them destitute.

In *Norway*, Iraqis whose cases have been rejected are allowed to stay in reception centres and are given very basic subsistence, but they are not allowed to work unless they sign up for the voluntary return programme.

In *Germany*, Iraqis who cannot be deported receive a so-called ‘tolerated’ permit but have no access to integration courses, receive reduced amounts of social welfare, have only very restricted access to the labour market and have no right to family reunification. As of 31 October 2007, approximately 9,358 Iraqi nationals had no legal residence status in Germany but only a ‘tolerated permit’. There was a more limited use of temporary permits in *Finland* during 2007, with 19 being issued as opposed to 81 in 2006. According to the revised ‘Municipality of Residence Decree’, effective since 1 September 2007, if the temporary permit status is renewed for a second year, the asylum seeker is only then allowed to work and access municipal services.

In *Romania*, 104 Iraqis in 2007 whose claims had been rejected were granted a temporary ‘tolerated status’, which does not entitle them to basic and social rights. In the *Slovak Republic*, Iraqi asylum seekers whose claims have been rejected can also be granted a ‘tolerated residence’ status. Iraqis whose applications have been rejected in *Switzerland* had access to legal advice and basic services in 2006/2007. Since January 2008, the former social aid programme has been replaced by a so-called ‘destitution aid programme’, which provides inadequate shelter and food. These excluded individuals have also been written off the statistics.

There is also evidence of the fact that Iraqis, who have been refused asylum, are becoming destitute in *Denmark* and the *UK*. In *Denmark* asylum seekers whose applications have been rejected and do not leave voluntarily can have their supplementary allowances withdrawn, for example.¹⁸ In the *UK*, virtually all Iraqi asylum seekers whose cases are rejected and who do not sign up to the assisted return programme have their support withdrawn thus many end up destitute.¹⁹

Recommendation:

- ECRE calls on all European countries to grant Iraqis who have not qualified for a protection status, a legal status (temporary or permanent depending on their circumstances) up to the time of their actual departure from the host country. This status should afford them their human rights and a dignified standard of living in the host country (including rights to housing, health, employment and education) in order to prevent them becoming destitute.

Endnotes

¹ This survey covers 21 of the 27 EU Member States (excludes Bulgaria, Czech Republic, Estonia, Latvia, Lithuania & Malta) and 4 non-EU Member States (Azerbaijan, Norway, Switzerland & Turkey). The contributors to the February 2008 Survey were - **ECRE Member Agencies**: Austria (Asylkoordination); Azerbaijan (International Eurasia Press Fund); Belgium (Vluchtelingenwerk Vlaanderen); Croatia (Croatian Law Centre); Denmark (Danish Refugee Council); France (France Terre d'Asile); Germany (Arbeiterwohlfahrt); Greece (Greek Council for Refugees); Hungary (Hungarian Helsinki Committee); Ireland (Irish Refugee Council); Italy (*Italian Council for Refugees*); Luxembourg (*Caritas Luxembourg*); The Netherlands (*Dutch Council for Refugees*); Norway (*Norwegian Organisation for Asylum Seekers*); Portugal (*Portuguese Refugee Council*); Romania (CNR); Slovakia (*Slovak Humanitarian Council*); Spain (CEAR & ACCEM); Sweden (*Caritas Sweden*); Switzerland (OSAR/SFH); & UK (*British Refugee Council*). **Other Agencies**: Cyprus (Future Worlds Center); Slovenia (PIC); Turkey (Helsinki Citizens Assembly); & Poland (Helsinki Foundation for Human Rights).

² See ECRE *Position on Return*, October 2003, paragraphs 7-10 for definitions.

³ UNHCR, *Global Appeal 2008-2009 – Iraq Situation*, available online - <http://www.unhcr.org/home/PUBL/474ac8d811.pdf>

⁴ Frontex Public Bulletin of September 2007, p. 4.

⁵ Pro Asyl, *The truth may be bitter, but it must be told - The Situation of Refugees in the Aegean and the Practices of the Greek Coast Guard*, October 2007 & Amnesty International, *Greece: No place for an asylum-seeker*, 27 February 2008.

⁶ UNHCR, *Asylum Levels and Trends in Industrialised Countries, 2006: Overview of Asylum Applications Lodged in European and Non-European Industrialised Countries in 2006*, 26 March 2007; *Asylum Levels and Trends in Industrialised Countries, Second Quarter 2007: Statistical Overview of Asylum Applications Lodged in 31 European and 5 Non-European Countries*, September 2007.

⁷ UNHCR, *Research Paper No. 144, Fortress Europe and the Iraqi 'intruders': Iraqi asylum-seekers and the EU, 2003-2007*, p. 19.

⁸ *Ibid.*, p 11.

⁹ Please note the following percentage figures are rough percentage calculations and are for indicative purposes only as official percentage figures were not available at the time of writing. Please also note that these figures relate to first instance decisions only and do not include temporary forms of protection. The method of calculation was the total recognition rate equals the total of positive decisions divided by the total of positive and rejected decisions times by 100.

¹⁰ UNHCR, *Research Paper No. 144, Fortress Europe and the Iraqi 'intruders': Iraqi asylum-seekers and the EU, 2003-2007*, P 18.

¹¹ German Federal Administrative Court, Press Release, *Europäischer Gerichtshof soll Widerruf der Anerkennung irakischer Flüchtlinge klären & German Federal Administrative Court, Anlage zur Pressemitteilung Nr. 4/2008 vom 7. Februar 2008*. Please note that the Federal Administrative Court in Leipzig has recently asked the European Court of Justice (ECJ) to clarify what protection conditions need to be in place in the country of origin to allow the withdrawal of refugee status.

¹² The Economic Times, "[Denmark grants asylum to 370 Iraqis](#)", 28 January 2008.

¹³ For further information on this issue please see -

<http://www.fco.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1007029391629&a=KArticle&id=1193597484124>

¹⁴ See also ECRE, *Position on Return*, October 2003 & ECRE, *The Way Forward: The Return of Asylum Seekers whose Applications have been Rejected in Europe*, June 2005.

¹⁵ ECRAN, *Weekly Update*, 15 February 2008 (available at www.ecre.org) & Athens News, *Greece blacklisted by Germany*, 29 February 2008. On 31 January 2008 the European Commission referred a case against **Greece** on the infringement of the Dublin II Regulation to the ECJ. **Norway** announced on 7 February 2008 that it was suspending the transfer of asylum seekers to Greece on the basis of information received on possible violation of the rights of asylum seekers in Greece. **Germany** has suspended the return of unaccompanied minors to Greece and may well be the next EU Member State to suspend all such transfers.

¹⁶ Reuters, *Sweden, Iraq sign deal on returning refugees*, 18 February 2008, available online at

<http://www.reliefweb.int/rw/RWB.NSF/db900SID/MMAH-7BY4PP?OpenDocument>

¹⁷ Many of these programmes are coordinated by the International Organisation for Migration (IOM).

¹⁸ For more information on conditions for asylum seekers in Denmark please see:

http://www.inm.dk/en-us/coming_to_dk/asylum/conditions_for_asylum_applicants/conditions_for_asylum_applicants.htm

¹⁹ For further information on destitution in the UK please see Refugee Action's '*The Destitution Trap*' (<http://www.refugee-action.org.uk/campaigns/destitution/intro.aspx#download>) as well as Amnesty International's Report entitled '*Down and out in London - The road to destitution for rejected asylum seekers*' (<http://www.amnesty.org.uk/content.asp?CategoryID=10918>).